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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,724	01/23/2004	Jay Dee Krull	702.322	7331

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EXAMINER

BEAULIEU, YONEL

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,724

Applicant(s)

KRULL ET AL.

Examiner

Yonel Beaulieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-16 is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 8-12 is/are rejected.
- 7) ☒ Claim(s) 2,7,13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Interview Summary

The Examiner has called the attorney of record, Mr. Thomas Luebbering, Wednesday, 8 September 2004. The attorney and the Examiner finally established contact on Tuesday, 14 September 2004. The Examiner proposed that claims 2 and 13 be canceled and their respective subject matter be incorporated into their respective base claims 1 and 8, respectively. The proposed amendment was not deemed acceptable to the attorney. An Office action to that effect follows:

Response to Arguments

Applicant's arguments filed 20 July 2004 have been fully considered but they are not persuasive.

First of all, Applicant's arguments are directed toward the housing portability not taught by Morimoto. The Examiner respectfully disagrees. As defined in the Webster's II, "portable" is not limited to "capable of being carried". It also is noted, "portable" to fit the definition of "easily ...moved". It is the Examiner's position the overall construction of fig. 16 at least meets that definition. In view of such the §102(b) rejection noted in the last Office action is maintained.

Second, reconsideration has been given to claims 2, 7, and 13. They are now objected to and would be allowable if incorporated into any rejected independent claim.

Claims 14 – 16 are now allowed.

Third, Applicant refers to claim 17. However, it is noted the Application contains only 16 claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4 - 6, and 8 – 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Morimoto et al. (US 5,757,359).

Regarding claims 1, 3, and 8 – 12, Morimoto et al. teaches a navigation device providing routing instructions comprising a GPS receiver (421 in fig. 16) for receiving satellite signals from a plurality of satellites (not explicitly shown) and determining a current location of the device (item 420); a memory (452-1) for storing route guidance data; receiving an input corresponding to a desired destination from a user (using item 410 in fig. 16; col. 10: 32 – 36 at least); a processor (450) coupled with the GPS and the memory and operable for calculating (using 451) a location of the device as a function of the received signals and for calculating a route to navigate to the desired destination and a speaker (416) coupled with the processor for providing audio instructions to navigate along the route to the desired destination (col. 11: 46 – 67) , wherein the

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receiver, the speaker, the memory, the processor and the speaker are housed in a portable handheld housing (note overall construction of fig. 16; col. 10: 13 – 53 at least).

Regarding claim 4, Morimoto et al.'s input is selected from a keypad (411) and a microphone (412a; see fig. 16; col. 10: 39 – 43; col. 11; 1 – 12 at least).

Regarding claim 5, Morimoto's device further includes a display (414; fig. 16) coupled with the processor.

Regarding claim 6, Morimoto's device is operable to communicate with a remote server via a communications channel (col. 10: 21 – 27 at least).

Allowable Subject Matter

Claims 14 – 16 are allowed.

Claims 2, 3, 7, and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The art of record fail to teach providing routing instructions to a device, wherein the device adjusts a starting point for a route calculation to an appropriate location such that the device is on the route when the route calculation is completed and the device

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communicates via a communications channel being selected from the group consisting of wireless communication channel, a satellite communication channel, a local area network channel, a wide-area network channel, and a virtual private network channel.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yonel Beaulieu whose telephone number is (703) 305-4072. The examiner can normally be reached on M-R, from 0900-1600.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas BLACK can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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